

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 304 - HB 376

February 26, 2023

SUMMARY OF BILL: Revises the manner for determining the percentage of alcohol in beer, high alcohol content beer, and other alcoholic beverages, from a weight measurement to a volume measurement. Changes the definition of alcoholic beverage to a liquid product having an alcohol content of more than 10.1 percent by volume, instead of a liquid product containing any amount of alcohol. Changes the definition of a high alcohol content beer from an alcoholic beverage having an alcoholic content between 8.0 percent and 20 percent by weight, to having an alcoholic content between 10.1 percent and 25.3 percent by volume. Changes the definition of beer from an alcoholic beverage, that is not wine, from having an alcoholic content of 8.0 percent or less by weight, to having an alcoholic content less than 10.1 percent by volume, regardless of the process by which it was manufactured or the fruit, grain, or product from which the alcohol was derived.

ESTIMATED FISCAL IMPACT:

Increase State Revenue –

\$10,700/FY23-24 and Subsequent Years/DOR

\$34,700/FY23-24 and Subsequent Years/Highway Fund

Decrease State Revenue –

Net Impact – \$2,428,900/FY23-24 and Subsequent Years/General Fund

\$21,600/FY23-24 and Subsequent Years/ABC Fund

Increase Local Revenue – Net Impact – \$883,100/FY23-24 and Subsequent Years

Assumptions:

Alcoholic Beverage Wholesale Tax

- Based on information provided by the Department of Revenue (DOR), it is estimated that 2.0 percent of all beers registered have an alcoholic content between 8.0 and 10.1 percent by volume and are currently considered to be a high alcohol content beer. Under current law, these types of beers would be subjected to the alcoholic beverage tax. The proposed legislation would no longer subject these types of beers to the alcoholic beverage tax.
- Based on information from DOR, high alcohol content beer tax collections are estimated to be \$18,500,000 in FY23-24; therefore, the recurring decrease in tax collections is estimated to be \$370,000 (\$18,500,000 x 2%).

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- The alcoholic beverage wholesale tax is \$1.21 per gallon, therefore, the number of gallons of beer no longer subject to the alcoholic beverage tax is estimated to be 305,785 ($\$370,000 / \1.21) in FY23-24 and subsequent years.
- Low alcohol content liquor beverages, such as hard seltzers, currently taxed as alcoholic beverages would be taxed as beer under the proposed legislation. Based on information provided by DOR, collections for low-alcohol content beverages are estimated to be \$2,000,000 in FY23-24; therefore, the number of gallons of low-alcohol content beverages no longer subject to the alcoholic beverage tax is estimated to be 1,652,893 ($\$2,000,000 / \1.21) in FY23-24 and subsequent years.
- The total estimated decrease in collections from the alcoholic beverage tax is \$2,370,000 ($\$2,000,000 + \$370,000$) in FY23-24 and subsequent years.
- According to DOR, wholesale alcoholic beverage tax collections are allocated 82.5 percent to the General Fund and 17.5 percent to localities.
- The decrease in revenue to the General Fund is estimated to be \$1,955,250 ($\$2,370,000 \times 82.5\%$) and the decrease in local revenue is estimated to be \$414,750 ($\$2,370,000 \times 17.5\%$) in FY23-24 and subsequent years.

Beer Wholesale Tax

- The total number of gallons of gallons no longer subject to the alcoholic beverage tax is estimated to be 1,958,678 ($305,785 + 1,652,893$).
- The 1,958,678 gallons no longer subjected to the alcoholic beverage tax will now have to pay beer wholesale tax, which is taxed by barrel at \$35.60 per barrel.
- It is estimated that 1,958,678 gallons translates to approximately 63,163 barrels.
- The beer wholesale tax is distributed as follows: \$0.17 to DOR, \$0.92 retained by the wholesaler, and \$34.51 to localities.
- Therefore, the recurring increase in state revenue to DOR beginning in FY23-24 is estimated to be \$10,738 ($\$0.17 \times 63,163$).
- The recurring increase in local revenue beginning in FY23-24 is estimated to be \$2,179,755 ($\$34.51 \times 63,163$).

Alcoholic Beverage Enforcement Tax

- Pursuant to Tenn. Code Ann. § 55-6-201(a), there is a tax placed upon the sale of alcoholic beverages at wholesale in the amount of \$0.15 per case of alcoholic beverages sold at wholesale that is allocated to the Alcoholic Beverage Commission (ABC).
- High alcohol content beer between 8.0 and 10.1 percent by volume will no longer be subject to the alcoholic beverage enforcement tax. Based on information provided by DOR, the estimated decrease in revenue to ABC will be \$21,600 in FY23-24 and subsequent years.

Beer Barrelage Tax

- High alcohol content beer between 8.0 and 10.1 percent by volume will be subjected to the Beer Barrelage Tax, which is \$4.29 per barrel. The total collections from high alcohol content beer that will now be subjected to the beer barrelage tax is estimated to be \$270,969 ($63,163 \times \4.29) in FY23-24 and subsequent years.
- The beer barrelage tax is distributed as follows: 67.1 percent to the General Fund, 12.8 percent to the Highway Fund, and 20.1 percent to localities.

- The increase state in revenue to the General Fund is estimated to be \$181,820 ($\$270,969 \times 67.1\%$), the increase in state revenue to the Highway Fund is estimated to be \$34,684 ($\$270,969 \times 12.8\%$), and the increase in revenue to local governments is estimated to be \$54,465 ($\$270,969 \times 20.1\%$) in FY23-24 and subsequent years.

Liquor-by-the-drink Tax

- FRC estimates that liquor-by-the-drink tax (LBD) collections will be \$226,000,000 in FY23-24.
- Based on information provided by DOR, it is estimated that one percent, or \$2,260,000 ($\$226,000,000 \times 1\%$), of LBD collections are from high alcohol content beer between eight and 10.1 percent by volume, and will no longer be subjected to the LBD tax.
- Pursuant to Tenn. Code Ann. § 57-4-306(a), 50.0 percent of the LBD tax is allocated to the state General Fund and 50.0 percent is distributed to the local government.
- The decrease in state revenue to the General Fund is estimated to be \$1,130,000 ($\$2,260,000 \times 50\%$) and the decrease in revenue to local governments is estimated to be \$1,130,000 ($\$2,260,000 \times 50\%$) in FY23-24 and subsequent years.

Grocery and Convenience Store Sales

- Allowing high alcohol content beer between 8.0 and 10.1 percent by volume and ready to drink cocktails to be sold in grocery and convenience stores is estimated to increase total alcohol sales in grocery and convenience stores by 10 percent.
- Based on information provided by DOR, the current projected sales of alcoholic beverages and beer in grocery and convenience stores is \$70,336,116 in FY23-24; therefore, as a result of the proposed legislation sales of alcoholic beverages and beer in grocery and convenience stores is estimated to increase \$7,033,612 ($\$70,336,116 \times 10\%$).
- The increase in state revenue going to the General Fund is estimated to be \$474,544 [$(\$7,033,612 \times 7\%) - (\$7,033,612 \times 7\% \times 3.617\%)$] in FY23-24 and subsequent years.
- The increase in revenue going to local governments is estimated to be \$193,649 ($\$7,033,612 \times 2.5\% + (\$7,033,612 \times 7\% \times 3.617\%)$) in FY23-24 and subsequent years.

Total

- The net decrease in General Fund revenue for FY23-24 and subsequent years is estimated to be \$2,428,886 ($\$1,955,250 - \$181,820 + \$1,130,000 - \$474,544$).
- The increase in revenue to DOR for FY23-24 and subsequent years is estimated to be \$10,738.
- The decrease state in revenue to ABC for FY23-24 and subsequent years is estimated to be \$21,600.
- The increase in revenue to the Highway Fund for FY23-24 and subsequent years is estimated to be \$34,684.
- The net increase in revenue to local governments for FY23-24 and subsequent years is estimated to be \$883,119 [$\$2,179,755 - \$414,750 + \$54,465 - \$1,130,000 + \$193,649$].

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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